



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**


In re patent application of:	)	Before the Examiner:
B. Thomas Barker et al.	)	James L. Swiger III
	)	
Application Serial No. 10/731,210	)	Group Art Unit: 3775
	)	
Filed: December 9, 2003	)	Atty. Ref. No.: PC398.08
	)	/MSDI-1005
MULTI-AXIAL BONE	)	
SCREW ASSEMBLY	)	May 25, 2010

**REQUEST FOR AN ACKNOWLEDGED COPY OF A  
PREVIOUSLY FILED INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Allowance dated January 13, 2010, the Applicant respectfully requests a fully acknowledged copy of the Information Disclosure Statement filed with the U.S. Patent and Trademark Office on October 10, 2006. Please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:	
May 25, 2010	_____
Date of Deposit	_____
Brad A. Schepers	_____
Name of Registered Representative	_____
	_____
Signature	_____
May 25, 2010	_____
Date of Signature	_____

## REMARKS

Pursuant to the duty of disclosure embodied in 37 C.F.R. §1.56, the Applicant filed an Information Disclosure Statement with the U.S. Patent and Trademark Office on October 10, 2006 which listed various patents, publications and/or other information. An Advisory Action dated February 20, 2007 included a partially acknowledged copy of the Information Disclosure Statement filed with the U.S. Patent and Trademark Office on October 10, 2006. However, the four (4) foreign patent documents and the three (3) non-patent publications listed in the Information Disclosure Statement filed on October 10, 2006 were stricken out by Examiner Swiger. Although the Advisory Action did not set forth a reason why the foreign patent documents and the non-patent publications were stricken out, the Applicant presumes that the foreign patent documents and the non-patent publications were stricken out for failing to provide copies of the stricken documents and publications.

The Applicant notes that each of the four (4) foreign patent documents and the three (3) non-patent publications that were stricken out by Examiner Swiger were previously submitted in other patent applications to which the subject application claims priority. Specifically, each of the four (4) foreign patent documents and the three (3) non-patent publications that were stricken out were cited in U.S. Patent Application Serial No. 09/940,902 filed August 28, 2001 (issued as U.S. Patent No. 6,660,004) and/or U.S. Patent Application Serial No. 09/387,991 filed September 1, 1999 (issued as U.S. Patent No. 6,280,442). Since each of the four (4) foreign patent documents and the three (3) non-patent publications were cited in U.S. Patent Application Serial No. 09/940,902 and/or U.S. Patent Application Serial No. 09/387,991, and since these two U.S. priority applications were properly identified in the Information Disclosure Statement dated October 10, 2006 (see page 2; item 2.a.i.), the Applicant was not required to submit copies of the previously-submitted documents and publications listed in the Information Disclosure Statement. Accordingly, the four (4) foreign patent documents and the three (3) non-patent publications cited in the Information Disclosure Statement filed October 10, 2006 should have been reviewed and properly acknowledged by Examiner Swiger.

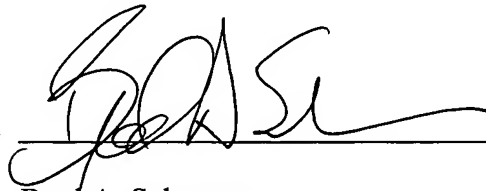
Additionally, the Applicant notes that, as a precaution, a Petition under 37 CFR § 1.78(a)(3) to Accept an Unintentionally Delayed Priority Claim Under 35 USC § 120 was filed with the U.S. Patent and Trademark Office on May 25, 2010 in the event that the previously submitted priority claim set forth in the Amendment filed with the U.S. Patent and Trademark Office on March 23, 2006 was for some reason deemed ineffective.

## CONCLUSION

In view of the forgoing, the Applicant respectfully requests a fully acknowledged copy of the Information Disclosure Statement filed with the U.S. Patent and Trademark Office on October 10, 2006.

Respectfully submitted,

By: \_\_\_\_\_



Brad A. Schepers  
Reg. No. 45,431  
Krieg DeVault LLP  
One Indiana Square, Suite 2800  
Indianapolis, Indiana 46204-2079  
(317) 238-6334 (voice)